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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,878	01/14/2004	Jeffrey S. Meteyer	D/A3359	5192
7590 Ortiz & Lopez, PLLC P.O. Box 4484 Albuquerque, NM 87196-4484				
EXAMINER				
KEATON, SHERROD L				
ART UNIT		PAPER NUMBER		
2174				
MAIL DATE		DELIVERY MODE		
11/15/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/757,878

Applicant(s)

METEYER, JEFFREY S.

Examiner

Sherrod Keaton

Art Unit

2174

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Sy D Luu/
Primary Examiner, Art Unit 2174

Continuation of 11, does NOT place the application in condition for allowance because:

Applicants' arguments have been fully considered but are not persuasive.

Applicants argue in reference to Claim 1 and 10 that there is no generating data but the biofeedback unit back as disclosed by Costello analyzes data and provides feedback, meaning generating data. In addition Costello shows purpose to better test dealing with ergonomics of a workpieces' design. Applicants also do not explicitly disclose the definition of tool and therefore is open to the broadest interpretation.

In response to Claims 6 and 15, Costello discloses data being stored and analyzed and an analysis requires some type of comparison (Column 4, Lines 35-40).

In response to Claims 7 and 16, Costello discloses an analysis of harmful patterns, which include analysis of person body with an object (i.e. workpiece or tool) (Column 3, Lines 1-10). Therefore the more harmful patterns of stress the more susceptible to injury thus producing possible risk factors.

In response to Claims 2 and 11, Walker interactive glove is merely the input device, which allows manipulation or interaction with virtual reality program. Also Walker discloses other potential manipulations of the system, which include a virtual reality for rehabilitation (background) incorporating the input device for interactive features showing that the combination is not nonsensical and plausible.

In response to Claims 3 and 12, pressure by definition is FORCE divided by area, and weight is the measurement of FORCE on an object, and Costello does disclose force sensors (Column 3, Lines 50-55).

In response to Claims 8 and 18, Costello discloses harmful patterns and repeated stress, and the more significant the harmful patterns makes a correlation to higher chance of injury which leads to higher risk (Column 4, Lines 35-40).

In response to Claim 9 and 19, Data management by definition is the control of data from acquisition and input through processing, output and storage and as an operation of retrieving data there must be a criteria to retrieve the data, which encompasses a search engine (Walker: Column 3, Lines 50-62).

In response to Claim 20, the electronic portal is open to broad interpretation, which Costello covers because it is electronic device and allows access to data or information with a display (Figure 1, Column 3, Lines 43-49; Column 4, Lines 18-23). Secondly the claim language merely recites that the portal CAN BE displayed meaning that it does not necessarily have to be. The remaining arguments are addressed similarly in the previous paragraphs.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).